

JUVENILE DELINQUENCY IN INDIA: NEED FOR STRINGENT LAWS OR SOCIETAL SUPPORT?

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ABSTRACT

The future of our country rests in the hands of our children. Hence, it becomes important to ensure that these children grow up in a safe and healthy environment in order to become a responsible citizen of the society tomorrow. However, not every child is fortunate to receive caring parents and world-class education. Many of such children devoid of these and other such opportunities end up on the wrong path. Some of them end up participating in illegal activities or committing dangerous crimes.

Today, there has been a significant increase in the crimes committed by juvenile. A question which haunts the common man and judges alike- Whether these juvenile delinquents should stand trial as adults or children when guilty of grave acts such as rape, murder and so on? What are the factors that contribute towards juvenile delinquency? Many laws have been enacted to resolve the cases concerning juvenile delinquents. But are these laws equipped to reform them so they can reintegrate themselves into society and lead a respectable life? Enactment of new and stringent laws may have a deterrent effect to an extent but it will not be much effective if society refuses to lend its support and continues treating these delinquents as social outcasts.

Keyword: juvenile, delinquent, children, crime, individual

1. INTRODUCTION

The issue of juvenile delinquency is not a new one. It occurs in all communities, whether simple and advanced. Juvenile delinquency is defined as the commission of criminal offenses or offences by minors, sometimes known as juveniles (children aged 16-18 years). These acts are not classified as “crimes” in the same way that they may be for individuals over 18. Such acts committed by children or juveniles are referred to as “delinquent acts.” It is not merely a legal matter. It also affects the mental well-being of an individual. The person who must deal with it must examine both the cognitive and familial aspects of the problem. It consists of two categories of behaviours: status and delinquent offences. Status offences are those that are unsuitable or unhealthy for kids and adolescents, and hence the behaviour is forbidden due to the perpetrator's age. Status offences include smoking, drinking, and others. Delinquent offences are defined as violations of legal statutes. For instance, murder, rape, and so on.

To conduct the trial of delinquents, special courts with specially trained Magistrates are established. Rather than a “trial,” the juvenile goes through “adjudication,” following which he or she is given a “disposition” and

punishment. It also calls for the establishment of rehabilitative schools for delinquents. Poverty, shattered households, family conflicts, psychological abuse, migration, collapse of social norms and traditional family system, cruelty and injustices by parents or guardians, flawed system of education, media bias, and other variables are the primary causes of delinquency. Juvenile delinquency can be as serious as drug related crimes or crimes committed against others.

The concept of prevention and the steps taken to discourage such delinquent behaviours include identifying the factors and dangers related with the offences, correcting them, and then developing protective factors to counterbalance the risks. Crime rates are at an all-time high in urbanised civilizations where conventional lifestyle, societal norms, and community groups have become lax. Children are the foundation of a country's future. It is our primary duty and obligation to defend them and to transform them into responsible members of our society.

2. DEFINING A JUVENILE

Someone that hasn't reached the age of majority and is immature or infantile is considered a juvenile. In the legal context, a juvenile can be referred to an individual who is

not over 18, an age when he/she can be punished for committing crime as an adult under the law of the land. In India, a juvenile or child is someone under the age of 18.

While a minor is defined as someone who is not yet an adult in the eyes of the law, the term juvenile implies legality. It does mean someone who is not an adult in legal jargon, which has a negative undertone. It connotes immaturity and childish behaviour, while legally speaking it denotes a young person accused of a crime. In this sense, juvenile is the polar opposite of minor; minor denotes an innocent youngster, but juvenile describes a young criminal.

3. FACTORS CONTRIBUTING TO JUVENILE DELINQUENCY

Factors that cause juvenile delinquency are discussed as follows:

- **Individual Factors-** A person's delinquent behaviour can be caused by a variety of factors. A minor with poor intelligence who has not been imparted quality education is more likely to engage in delinquent behaviour. Other variables that may be present include temper tantrums, uncontrollable hostility, and difficulty in delaying gratification. Individual characteristics include mental health problems. A person's psychological condition has a significant impact on his actions in society. Thus, these characteristics can result in the involvement of a minor in harmful, violent and illicit activities.
- **Familial Factors-** Family factors can include recurrent family feuds, child abuse and neglect, or the absence of adequate adult supervision. Children whose parents display a disregard for the rules and societal norms of the nation may adopt the same attitude. Furthermore, individuals with the poorest bonds with their family tend to be the same adolescents who participate in illegal activities.
- **Substance Abuse-** The majority of delinquency cases in juveniles involves substance misuse. Adolescents today use more potent drugs than teenagers did ten years ago. Furthermore, these children began taking drugs at a fairly young age. Teenagers who use these illegal or legal substances are more prone to commit offences. Moreover, when a child is intoxicated, he is more likely to participate in destructive, dangerous, and criminal behaviour.

4. PUNISHMENT INFLICTED UPON JUVENILE DELINQUENTS

The Juvenile Justice (Care and Protection of Children) Act of 2000 was by far the most notable juvenile criminal statute of India. Under this law, a child below the age of majority was considered a juvenile, and they were never permitted to undergo trial as an adult. This provision triggered criticism in India in the aftermath of the Nirbhaya Case, which shook the nation on December 16, 2012. In Gaurav Kumar's case, the Apex Court stated that the JJ Act 2000 ought to be reassessed as it had been ineffective in deterring children from committing minor and heinous crimes. The involvement of an individual below the years in such a heinous crime as rape, as well as the Hon'ble Court's standpoint, compelled the Indian parliament to propose new law, and thus "Juvenile Justice (Care and Protection) Act, 2015" (hereinafter JJ Act 2015) was enacted. The existing juvenile legislations were replaced. Moreover, some substantial modifications were made. One of the key developments was that if a juvenile aged 16 to 18 turned out to be guilty of committing a gruesome act, he would be tried as an adult under the provisions of the new Act.

As per Section 2(12) of The JJ Act, 2015, a "child" is regarded as someone who has not attained the age of majority. The Act defines the word "child" in dual ways:

- A. "A child who has a run-in with the law," and
- B. "A child in need of protection and care"

A "child in conflict with the law" refers to a child guilty of committing a crime while a minor. On the other hand, another group talks about "child in need of care and protection" with respect to Section 14 of the JJ Act, 2015. The maximum term of imprisonment for juvenile offenders under the Act is three years, and this punishment applies on both serious and petty offences. In the case of an adult offender, the maximum punishment that can be awarded is 7 years of incarceration, life imprisonment, or death penalty.

5. JUDICIAL STANCE ON PUNISHMENT INFLICTED UPON JUVENILE DELINQUENTS

In Mukesh and Anr v. State of NCT of Delhi & Ors, it was argued that the perpetrator's age cannot be drawn upon as a cover for the act of depravity accused committed towards the deceased. He had inserted an iron rod inside the victim's body, yelled profanities at her, and caused severe damage to her internal organs. The convict, a

juvenile at the time of committing the heinous crime was released after serving his sentence.

In Shakti Mills rape case, a minor was accused of committing a brutal act of rape. In this case, one of the principal defendants was a teenager who had to serve only three years of sentencing in a detention facility, whereas offenders over 18 years of age were given the death penalty. The issue that remains is whether the existing penalty is enough to reform a juvenile delinquent.

Another aspect to examine is the definition of the term 'heinous.' To be prosecuted as an adult, an individual between the ages of 16 and 18 must be indicted with a heinous offence. According to Section 2(33) of the new Act, "those offences for which the minimum sentence under the Indian Penal Code, 1860 or any other legislation for the time being in force is imprisonment for seven years or more" shall be categorized as heinous offences. Permitting a minor between 16-18 years of age to stand trial as an adult in certain cases is indubitably a victory for our country's judicature; however, the description of word "heinous" seems to be inaccurate. This was highlighted in the Nangre case where the Bombay High Court was hearing a writ petition in the matter, which asked if the juvenile should be sent to a Children Court because the offence was attempted murder, which is punishable under Section 307 of the Indian Penal Code, 1860. "In the present instance, all of the petitioners, despite being between the ages of 16 and 18, have not committed heinous crimes, and hence their acts are not covered under Section 15 of the 2015 Act, and thus the case cannot be referred to Children's Court," the Court concluded. "Hence, the investigation would be supervised by the Sangli Juvenile Justice Board." Regardless of the fact that minors sought to murder someone and cause grave injury, the Court in this matter chose to treat them as juveniles and save them from serving the punishment they deserved.

It is worth noting that using such a description makes crime seem to be the result of an age factor, while it is not so. An individual between 16-18 years of age is mature enough to know the difference between right and wrong. Hence, if a minor hailing from this age bracket commits a heinous crime, he should not be let off without sentencing him with severe punishment.

6. JUDICIAL APPROACH TOWARDS PROTECTING JUVENILE DELINQUENTS

The Court's role is very essential for safeguarding the rights of human beings, especially children. Children are

the country's valuable resource, and it is the principal duty of the court to protect the rights and facilities granted to citizens for the wellbeing and progress of the society. The Supreme Court has done an outstanding job in the care and protection of children. Some of the highlights demonstrating the judiciary's position on children's welfare are mentioned herein:

In *Re-Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*, the Hon'ble Court pronounced that child care and protection legislation should benefit all kinds of children. The Court stated that the definition of "child in need of care and protection" under the JJ Act, 2015 should be read as broadly as conceivable. Moreover, the Court laid down guidelines to be followed in order to safeguard the rights and interest of the children.

Kakoo v. State of Himachal Pradesh is another landmark case that highlights the effects of treating a juvenile as an adult during trial. In this case, accused was a teenage boy guilty of raping a baby girl. While pronouncing the sentence, Justice Sarkaria stated that long-term incarceration is bound to convert a juvenile delinquent into a criminal and stressed that in matters concerning minor offenders, criminological trends need a more humane attitude.

It demonstrates that the Indian judicial system has begun to become an ally of the ordinary person. The Indian judiciary is evolving as a contributor and facilitator in the country's efforts to improve juvenile justice system. Within the framework of the Constitution and Juvenile Justice legislation, the judicial branch is taking proactive measures to look after the well-being of children across the length and breadth of India. The objective is not to torture delinquents with the threat of incarceration, but to assist and lead them in becoming the responsible individuals of the society via rehabilitative process.

7. CONCLUSION

It is evident from the preceding discussion that simply implementing and amending the Juvenile Justice Act will not play a pivotal role in reducing cases of juvenile delinquency. It is critical to sensitize civil society about the malady that exists in our society. Adolescents involved in crimes are not just criminals, but also sufferers of this rotten society. Juvenile delinquency can be prevented at a young age if proper care is taken by family and teachers. Parents and teachers serve an active role in shaping a child's psyche. In lieu of labeling juvenile delinquents, essential measures should be undertaken to provide them

with a path to redemption. Their indiscretions, whether social or psychological, must be called to their attention as soon as feasible. This societal evil, unlike any other crime, is tied to our society's dysfunctionality and inadequacies. There is no evidence that stringent laws will result in lower crime rates. The notion is progressively gaining widespread recognition that juvenile delinquents require our society's compassion and empathy, not only the strong hand of the law.

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